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Ronald Oliver, Christopher Vasquez,
Bryan Sheilds, Francis Kim,
Beebe Clark, Jacob Murphy,
Linda Adams, and Jerimiah Melton*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BILLY CEPERO,

Plaintiff,

vs.

HIGHT DESERT STATE PRISON, *et al*

Defendants.

Case No. 3:12-cv-00263-ECR-VPC

**MOTION FOR EXTENSION OF TIME TO
PLEAD OR OTHERWISE RESPOND TO
PLAINTIFF'S SECOND AMENDED
COMPLAINT**

Defendants Dwight W. Neven, Isidro Baca, Romeo Aranas, MD, Jessica Gerke fka
Jessica Fowler, Gary Graham, Cole Morrow, Jerry Howell, Howard Wickham, Genesa Garcia,
Roland Daniels, Ronald Oliver, Christopher Vasquez, Bryan Sheilds, Francis Kim, Beebe
Clark, Jacob Murphy, Linda Adams, and Jerimiah Melton, by and through undersigned
counsel, respectfully move this Court for an extension of time from July 8, 2013, of sixty (60)
days to and until September 6, 2013, within which newly named defendants for whom the

1 Attorney General accepted service to plead or otherwise respond to Plaintiff's Second
2 Amended Complaint (# 27). This motion is made pursuant to Rule 6(b) of the Federal Rules
3 of Civil Procedure on the grounds that good cause exists for the requested enlargement. This
4 motion is based upon the following points and authorities.

5 **PROCEDURAL HISTORY**

6 This is civil rights action brought *pro se* pursuant to 42 U.S.C. § 1983 by an indigent
7 prisoner *in forma pauperis* who is currently located at Lovelock Correctional Center, but based
8 upon events that occurred at High Desert State Prison ("HDSP"). In September 2012, the
9 Court allowed Plaintiff to proceed only on two claims asserted in his July 2012 amended
10 complaint, filed as Docket Number 8, which claims are: (1) against HDSP corrections staff
11 and administrators Gerke (fka Fowler), Neven, Baca, and Morrow on a failure to protect claim
12 based upon allegations that they housed Plaintiff, or allowed Plaintiff to be housed, with other
13 prisoners who previously threatened him, and who thereafter attacked and injured Plaintiff
14 (Doc. # 11 – Screening Order at 7:22-24); and (2) against HDSP medical staff Graham and
15 Aranas on a medical deliberate indifference claim in connection with taking a back brace
16 away from Plaintiff and disregarding orders for physical therapy (*id.* at 8:1-3).

17 After issuance of an order (Doc. # 20) allowing this case to proceed, on January 16,
18 2013 Plaintiff filed a motion to amend. Doc. # 24 – Motion to Amend. On February 8, 2013,
19 the Court granted Plaintiff's motion. Doc. # 26 – Order Granting Leave to Amend. On March
20 13, 2012, Plaintiff filed a second amended complaint. Doc. # 28 – Second Amended
21 Complaint. On March 19, 2013, Defendants Dwight W. Neven, Isidro Baca, Romeo Aranas,
22 MD, Jessica Gerke fka Jessica Fowler, and Gary Graham, filed an answer to Plaintiff's
23 second amended complaint, which asserted two affirmative defenses: (1) failure to state a
24 claim; and (2) failure to exhaust administrative remedies. Doc. # 28 – Answer to Second
25 Amended Complaint at 3.

26 On June 4, 2013 the Court ordered the Attorney General to file an acceptance of
27 service regarding the newly named defendants in Plaintiff's Second Amended Complaint no
28 later than June 24, 2013. Doc. # 44. On June 24, 2013 the Attorney General complied with

1 said order, notifying the Court of acceptance of service on behalf of thirteen (13) additional
2 newly named defendants.

3 **DEFENANTS' MOTION**

4 Defendants calculate that the response of the defendants for whom the Attorney
5 General accepted service to Plaintiff's Second Amended Complaint is due July 8, 2013.
6 Defendants are requesting a sixty (60) day extension of time on behalf of the thirteen (13)
7 defendants newly named for whom the Attorney General accepted service to plead or
8 otherwise respond to Plaintiff's Second Amended Complaint from July 8, 2013 to and
9 including September 6, 2013 within which to plead or otherwise respond. In support of this
10 motion Defendants show the following good cause: (1) counsel needs to notify each
11 defendant that he must meet the statutory requirement of requesting Attorney General
12 representation in writing or chose to hire private counsel; and (2) as to each who requests
13 representation, counsel needs to determine that defendant's knowledge concerning the facts
14 and circumstances that are the basis of Plaintiff's claims in order to formulate a response to
15 the Second Amended Complaint.

16 Upon a showing of good cause, requests for extensions of time for a requesting party
17 to act that are requested before the time for the required act has expired are allowed pursuant
18 to the Court's exercise of its discretion. Fed. R. Civ. Pro. 6(b)(1); see *Fleischer Studios, Inc.*
19 *v. A.V.E.L.A., Inc.*, 654 F.3d 958, 966 9th Cir. 2011). On June 24, 2013, pursuant to Court
20 order (#44), counsel notified the Court (# 47) that the Attorney General accepts service of
21 process of Plaintiff's Second Amended Complaint (#27) on behalf of thirteen (13) newly
22 named party-defendants. On July 1, 2013 counsel sent out notices to each said defendant
23 regarding the need for written request for representation from each, and what information
24 each has as to the events and circumstances that are the basis of the claims asserted in
25 Plaintiff's Second Amended Complaint. Good cause exists to grant the requested extension.

26 **CONCLUSION**

27 Based on the foregoing, Defendants respectfully request that an extension of time be
28 granted within which newly named defendants for whom the Attorney General accepted

1 service to plead or otherwise respond to Plaintiff's Second Amended Complaint to and
2 including September 6, 2013.

3 Dated this 1st day of July, 2013.

4
5 CATHERINE CORTEZ MASTO
6 Attorney General

7 By /s/ Stephen D. Quinn
8 STEPHEN D. QUINN
9 Senior Deputy Attorney General
10 Bureau of Litigation
11 Attorneys for Defendants
12 Dwight W. Neven,
13 Isidro Baca, Romeo Aranas, MD,
14 Jessica Gerke fka Jessica Fowler,
15 Gary Graham, Cole Morrow,
16 Jerry Howell, Howard Wickham
17 Genesa Garcia, Roland Daniels,
18 Ronald Oliver, Christopher Vasquez,
19 Bryan Sheilds, Francis Kim,
20 Beebe Clark, Jacob Murphy,
21 Linda Adams, and Jeremiah Meltor

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IT IS SO ORDERED

U.S. MAGISTRATE JUDGE

DATED: July 2, 2013

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2013, I electronically filed the foregoing **MOTION FOR EXTENSION OF TIME TO PLEAD OR OTHERWISE RESPOND TO SECOND AMENDED COMPLAINT** with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system:

BILLY CEPERO #94730
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/s/ Elizabeth A. Avram
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